

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Melvin Wing,

File No. 25-cv-323 (ECT/JFD)

Petitioner,

v.

**ORDER ACCEPTING REPORT
AND RECOMMENDATION**

Warden of the Federal Medical
Center Rochester, United States
District Court for the District of
Minnesota, and United States
Attorney General,

Respondents.

Petitioner Melvin Wing commenced this action pro se by filing a petition for a writ of habeas corpus. ECF No. 1. The case is before the Court on a Report and Recommendation issued by Magistrate Judge John F. Docherty. ECF No. 5. Magistrate Judge Docherty recommends dismissing Wing's petition without prejudice for lack of subject-matter jurisdiction. *Id.* at 6. Wing filed objections to the Report and Recommendation. ECF No. 7. In response to Wing's objections, Respondents filed a very short reply confirming their view that the Report and Recommendation "should be adopted in its entirety." ECF No. 8. Because Wing has objected, the Court is required to review the Report and Recommendation de novo pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b)(3). The Court has undertaken that de novo review and has concluded that Magistrate Judge Docherty's analysis and conclusions are correct.

Therefore, based upon all of the files, records, and proceedings in the above-captioned matter, **IT IS ORDERED THAT:**

1. The Objections to the Report and Recommendation [ECF No. 6] are **OVERRULED**.

2. The Report and Recommendation [ECF No. 5] is **ACCEPTED** in full.

3. The Petition for a Writ of Habeas Corpus [ECF No. 1] is **DENIED**.

4. Petitioner's Application to proceed *in forma pauperis* [ECF No. 2] is **DENIED**.

5. Petitioner's Motion for the *in forma pauperis* statute to be declared unconstitutional [ECF No. 3] is **DENIED**.

6. The action is **DISMISSED WITHOUT PREJUDICE** for lack of subject-matter jurisdiction.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 1, 2025

s/ Eric C. Tostrud

Eric C. Tostrud

United States District Court